

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3783 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANNUBHAI SHAMALDAS SHAH & OTHERS

Versus

COLLECTOR DIST. AHMEDABAD & OTHERS

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Appearance:

MR GM AMIN for Petitioners  
MR NN PANDYA for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/07/96

ORAL JUDGEMENT

1. The petitioners filed this Special Civil Application before this Court wherein the prayer has been made that the respondents, their agents and servants be restrained from removing and demolishing the cabins of the petitioners situated at Dehgam- Mosasa road in the village Dehgam, Dist. Ahmedabad. This writ petition has been admitted by this Court and interim relief has also been granted. Interim relief in terms of para 8(b) has

been granted by this Court. The injunction has been issued by this Court restraining the respondents their agents and servants from removing and demolishing the cabins of the petitioners. None of the respondents have filed reply to this Special Civil Application. Because of the stay order granted by this court, the cabins of the petitioners are continuing at the places where they are. It appears to be the case where the respondents wanted to remove and demolish the cabins of the petitioners on the ground that they have made encroachment upon the land vested in the forest department. Though the petitioners have not given out their title over the land where they are having their cabins, but before any action for removal and demolition of the cabins is taken, it is in the fitness of the case, that they may be given an opportunity of hearing to establish their right.

2. I do not consider it proper to go on the merits of this case, at this stage, because the petitioners have also not produced any evidence on record relating to their rights and the respondents have also not filed reply to this petition. Apart from this, the interim relief granted by this Court continues for all these years. The interest of justice will be met in case this Special Civil Application is disposed of with the direction that in case, the respondents intend to remove and demolish the cabins of the petitioners, then the petitioners may be given an opportunity of hearing and only thereafter, the order may be passed. In case the petitioners failed to establish their right over the land on which they have put their cabins, and thereafter on passing of the order they will themselves surrender the possession of the land to the appropriate authority otherwise it is open to the respondent to remove and demolish the cabins. Rule is made absolute in the aforesaid terms with no order as to costs.

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